

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 20 be amended to read as follows:

1 Page 2, line 10, delete "**Except as provided in**" and insert "Every
2 such person, firm, corporation, limited liability company, or
3 association who ~~shall fail~~ **fails** to make payment of wages to ~~any such~~
4 **an** employee as provided in section 1 of this chapter shall, as
5 liquidated damages for such failure, pay to such employee for each
6 day that the amount due to him remains unpaid ten percent (10%) ~~of~~
7 **on** the amount due to ~~him~~ **the employee** in addition thereto, not
8 exceeding double the amount of wages due, and said damages may be
9 recovered in any court having jurisdiction of a suit to recover the
10 amount due to ~~such~~ **the** employee, and in any suit so brought to
11 recover said wages or the liquidated damages for nonpayment thereof,
12 or both, the court shall tax and assess as costs in said case a
13 reasonable fee for the plaintiff's attorney or attorneys.

14 **(b) The court in determining the amount of the penalty as set**
15 **forth in subsection (a), shall consider whether the employer:**

16 **(1) has shown by clear and convincing**
17 **evidence that the act or omission that gave rise to**
18 **the alleged violation of section 1 was made in good**
19 **faith; and**

20 **(2) that the employer had reasonable grounds to**
21 **believe that its actions were lawful."**

22 Page 2, delete lines 11 through 42.

23 Page 3, delete lines 1 through 6.

(Reference is to SB 20 as printed February 22, 2005.)

Senator SIMPSON